

The House Committee on Judiciary Non-civil offers the following substitute to HB 1052:

A BILL TO BE ENTITLED
AN ACT

To amend Article 7 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to demand for trial and announcement of readiness for trial, so as to lengthen the time frame for cases in which a demand for speedy trial is filed in felony, misdemeanor, and capital cases; to provide for other related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to demand for trial and announcement of readiness for trial, is amended by revising Code Section 17-7-170, relating to demands for trial, as follows:

"17-7-170.

(a) Any defendant against whom a true bill of indictment or an accusation is filed with the clerk for an offense not affecting the defendant's life may enter a demand for speedy trial at the court term at which the indictment or accusation is filed or at the next succeeding regular court term thereafter; or, by special permission of the court, the defendant may at any subsequent court term thereafter demand a speedy trial. In either case, the demand for speedy trial shall be filed with the clerk of court and served upon the prosecutor and upon the judge to whom the case is assigned or, if the case is not assigned, upon the chief judge of the court in which the case is pending. A demand for speedy trial filed pursuant to this Code section shall be filed as a separate, distinct, and individual document and shall not be a part of any other pleading or document. Such demand shall clearly be titled 'Demand for Speedy Trial'; reference this Code section within the pleading; and identify the indictment number or accusation number for which such demand is being made. The demand for speedy trial shall be binding only in the court in which the demand for speedy trial is filed, except where the case is transferred from one court to another without a request from the defendant.

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(b) If the defendant is not tried when the demand for speedy trial is made, ~~or at the next succeeding regular court term thereafter,~~ or within 180 days from the date such demand is filed, whichever period is longer, provided that at ~~both court terms~~ such periods of time there were juries impaneled and qualified to try the defendant, the defendant shall be absolutely discharged and acquitted of the offense charged in the indictment or accusation. For purposes of computing the term at which a misdemeanor must be tried under this Code section, there shall be excluded any civil term of court in a county in which civil and criminal terms of court are designated; and for purposes of this Code section it shall be as if such civil term was not held.

(c) Any demand for speedy trial filed pursuant to this Code section shall expire at the conclusion of the trial or upon the defendant entering a plea of guilty or nolo contendere.

(d) If a case in which a demand for speedy trial has been filed, as provided in this Code section, is reversed on direct appeal, a new demand for speedy trial shall be filed within the term of court in which the remittitur from the appellate court is received by the clerk of court or at the next succeeding regular court term thereafter.

(e) If the case in which a demand for speedy trial has been filed as provided in this Code section results in a mistrial, the case shall be tried at the next succeeding regular term of court or within 180 days from the date of such mistrial, whichever period is longer."

SECTION 2.

Said article is further amended by revising Code Section 17-7-171, relating to the time for demand for speedy trial in capital cases, as follows:

"17-7-171.

(a) Any person accused of a capital offense may enter a demand for speedy trial at the term of court at which the indictment is found or at the next succeeding regular term thereafter; or, by special permission of the court, the defendant may at any subsequent term thereafter demand a speedy trial. The demand for speedy trial shall be filed with the clerk of court and served upon the prosecutor and upon the judge to whom the case is assigned or, if the case is not assigned, upon the chief judge of the court in which the case is pending. A demand for trial filed pursuant to this Code section shall be filed as a separate, distinct, and individual document and shall not be a part of any other pleading or document. Such demand shall clearly be titled 'Demand for Speedy Trial'; reference this Code section within the pleading; and identify the indictment number or accusation number for which such demand is being made. The demand for speedy trial shall be binding only in the court in which such demand is filed, except where the case is transferred from one court to another without a request from the defendant.

(b) If more than two regular terms of court are convened and adjourned after the term at which the demand for speedy trial is filed or 180 days have elapsed since the date of the filing of the demand, whichever period is longer, and the defendant is not given a trial, then the defendant shall be absolutely discharged and acquitted of the offense charged in the indictment, provided that at ~~both terms~~ such periods of time there were juries impaneled and qualified to try the defendant and provided, further, that the defendant was present in court announcing ready for trial and requesting a trial on the indictment.

(c) In cases involving a capital offense for which the death penalty is sought, if a demand for speedy trial is entered, the counting of terms under subsection (b) of this Code section shall not begin until the convening of the first term following the completion of pretrial review proceedings in the Supreme Court under Code Section 17-10-35.1."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.